S.B. Civil Misc. Appeal No.1331/2005

M/s. Suwalka & Company.
vs.
Hajuri and others.

Date : 18.7.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. MS Panwar, for the appellant.
Mr. Ravi Bhansali, for the respondents.

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At the request of learned counsel for the parties, this appeal is heard finally.

Only short question involved in this appeal is whether the learned Workmen's Compensation Commissioner committed error of law by not affording opportunity of hearing to the parties before passing the order of imposition of penalty.

It is submitted by learned counsel for the appellant that though an issue was framed by the court below about imposition of penalty but it is clear from the award itself that learned Commissioner has not given any reason for imposition of penalty. Not only this, the argument of any party has not been mentioned. The order of imposition of penalty is a non-speaking order.

Learned counsel for the respondents submitted that the penalty could have been more but only 15% has been imposed,

therefore, the appeal be dismissed.

I have considered the rival submissions and have perused the facts of the case.

In this appeal, imposition of penalty only has been challenged and it appears from the order passed by the learned Commissioner that neither any notice was given to the employer before imposition of penalty nor opportunity of hearing was given. Said opportunity of hearing, if was given, then the order of the learned Commissioner is a non-speaking order in as much as, nothing has been mentioned about the reason for imposition of penalty.

Consequently, this appeal is allowed so far as imposition of penalty of Rs.62,394/- is concerned. The matter is remanded back to the learned Workmen's Compensation Commissioner, Udaipur who shall decide the question of imposition of penalty after hearing both the parties uninfluenced by the impugned order dated 30.5.2005.

Both the parties are directed to remain present on 21.8.2006 before the Workmen's Compensation Commissioner, Udaipur.

(PRAKASH TATIA), J.

S.Phophaliya